IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No. 1477 of 1999

Date of decision: November 29, 2006

Naresh Kumar Prop M/s Parlad & Company Budhalada.

....Petitioner.

Vs.

State of Punjab

.....Respondent

PRESENT: Mr.S.R.Verma, Advocate for the petitioner.

Mr.G.S.Bhandari, Deputy Advocate General, Punjab

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JUDGMENT

M.M.Aggarwal, J.

This is a petition filed by Naresh Kumar Proprietor Parlad and Company Budhlada against order dated 27.7.1999 of CJM Mansa whereby application for discharge made by the petitioner was dismissed.

The case was complaint case for offence under Sections 3 k(i) 9,17,18,21(b), 29 & 33 Rule 16, 19 of Insecticides Rules, 1971 filed by the State of Punjab through Gurmail Singh Insecticide Inspector on the allegations that sample of 2,4-D Ethyle Ester had been drawn on 27.12.1993. This sample was found to be misbranded.

Petitioner had sought discharge on the ground that his licence was originally cancelled but then was restored by the Appellate Authority under

Section 30(3) of the Insecticide Act and when that was the position, then complaint could not lie. The further ground taken was that the shelf life of the sample was from December 1992 to November 1994. Show cause notice was issued on 4.3.1994 which was received on 21.3.1994 and request for sending sample was made but it was rejected. Then petitioner first time put in appearance before the Court on 28.11.1994 and made a request for re-analysis the same but at that time the shelf life of the sample had expired.

These facts had been admitted by the respondent Insecticide Inspector by filing reply but had been pleaded that even if licence of the petitioner had been restored, still it was no good ground for his discharge.

Counsel for he petitioner has relied on judgments of this Court reported as **Rajinder Kumar Vs. State of Punjab 2003(2) RCR (Crl.) 244 and Manesh Kumar Vs. State of Punjab through Insecticide Inspector 2005(2) RCR (Crl.) 46**.

Admittedly, the sample had been taken from sealed container and petitioner was a dealer. His licence was cancelled but then restored.

Under these circumstances, this petition is accepted. Impugned order is set aside and petitioner shall stand discharged.

(M.M.Aggarwal)
Judge

November 29, 2006
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